

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. S1-1:06 CR 134 CDP
)	DDN
MICHAEL D. MEADOR, et al.,)	
)	
)	
Defendants.)	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE
REGARDING JOINDER OR SEVERANCE**

This action is before the Court upon the pretrial motions of defendant Michael D. Meador. The pretrial motions of all parties were referred to the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(b). An evidentiary hearing on the motions of defendant Meador was held on August 28, 2007.

Defendant Michael D. Meador has moved for severance for a separate trial (Doc. 226).¹ The United States does not oppose the motion.

Defendant argues that at a joint trial the government would offer the statement of a co-defendant against that co-defendant which also incriminates movant Meador. In such a case, the moving defendant would be entitled to a separate trial to avoid the prejudice of not being able to cross-examine the declarant co-defendant. Bruton v. United States, 391 U.S. 123, 136 (1968). Such prejudice might be avoided by the redaction from the statement of any reference to the moving co-defendant. United States v. Bolden, 92 F.3d 686, 687 (8th Cir. 1996).

¹At this hearing, the court also took up the pending motion of defendant Meador to suppress evidence. At the request of the defendant, the parties were given time to file post-hearing briefs following the filing of a transcript of the hearing.

In this case the government agrees that it has such evidence and that it presents a substantial Bruton problem.² For this reason, the government does not oppose the motion to sever.

Whereupon,

IT IS HEREBY RECOMMENDED that the motion of defendant Michael D. Meador to sever his case for a trial separate from that of his co-defendants (Doc. 226) should be sustained.

The parties are advised they have ten days from this date to file written objections to this Report and Recommendation. The failure to file objections may result in a waiver of the right to appeal issues of fact.

/S/ David D. Noce
UNITED STATES MAGISTRATE JUDGE

Signed on August 31, 2007.

²At the hearing, counsel for the United States indicated that a separate trial of defendant Meador would likely take one week.